

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION  
A SPECIAL ORDER BY CONSENT  
ISSUED TO  
MW Manufacturers Inc.**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and MW Manufacturers Inc., for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.
6. “MW Manufacturers Inc.” means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. “MW”, means MW Manufacturers, Inc.
8. “Facility” means the structure and operations at 433 North Main Street located in Rocky Mount, Virginia.
9. “WCRO” means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
10. “Major Air Facility”, means a facility that emits more than 100 tons of any criteria pollutant, or 10 tons of any Hazardous Air Pollutant (HAP), or 25 tons of plantwide HAP’s combined during any 12mo. increment.
11. “Title V Operating permit”, means an air operating permit issued to a Major Air Facility.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. MW Manufacturers Inc. owns and operates a facility on 433 North Main Street in Rocky Mount, Virginia. This facility is the subject to regulations and requirements in their Title V Operating Permit dated October 1, 2001, which addresses air pollution control operations of a window manufacturing facility.
2. The Title V Operating Permit, has conditions IX C.3 and D. which address submittal of a Annual Compliance Certification report, required to be submitted March 1<sup>st</sup> of each year and Semi-Annual Deviation report submitted March 1<sup>st</sup> and September 1<sup>st</sup> of each year, respectively. “MW”, submitted their first required Compliance Certification and Semi-Annual Deviation report on time for the first submittal. In the Semi-Annual Deviation report the source lists a brief period of time that records had failed to be maintained. A Warning Letter was issued on 3/5/02, for that apparent violation of the Air Pollution Control Law and Regulations. The submittal of the Annual Compliance Certification report included reference to the above permit limits which provide the submittal dates.
3. On April 10, 2003, DEQ-WCRO staff discovered the two Title V Compliance reports had not been submitted by MW and the submittal date had expired. On this same day staff left a voice mail relaying the information about the apparently delinquent reports on the MW environmental contact’s voice mail machine.

4. On, 4/14/03, MW notified WCRO Staff that these reports were going to be hand delivered that same day. The reports were delivered on that date as stated. WCRO staff informed the MW contact that these reports were considered late and since the facility had received a previous Warning Letter for a TV Operating Permit reporting/record keeping requirement deficiency, that now a NOV would be issued for the apparent violation.
5. On 4/18/03, WCRO issued MW a Notice of Violation of Sections 9 VAC 5-80-110 F.2a. and K.5.(a.) of the Virginia Regulations for the Control and Abatement of Air Pollution. Apparent violations of Conditions IX C.3 and D., of the 10/01/01 Title V Operating Permit which referenced those regulation citations, were also cited as part of that Notice of Violation.
6. On 4/28/03 during the enforcement meeting detailing the findings of the above mentioned NOV, MW presented a letter dated 4/24/03 which details the company's commitment to maintain continuous environmental compliance and measures that are now in place to assist in preventing a reporting oversight in the future.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307.D, 10.1-1184 and §10.1-1316.C, orders MW Manufacturers Inc., and MW Manufacturers Inc. agrees, to perform the actions described in this section of this Order.

The Board orders MW Manufacturers Inc., and MW Manufacturers Inc. voluntarily agrees, for the purpose of resolving this matter, but without admitting the truth or falsity of the foregoing alleged findings of facts, to pay a civil charge of **\$2,100** within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

## **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of MW Manufacturers Inc., for good cause shown by MW Manufacturers Inc., or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to MW Manufacturers Inc. by DEQ on April 14, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, MW Manufacturers Inc. does not contest the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. MW Manufacturers Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. MW Manufacturers Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by MW Manufacturers Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. MW Manufacturers Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. MW Manufacturers Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. MW Manufacturers Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and MW Manufacturers Inc.. Notwithstanding the foregoing, MW Manufacturers Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to MW Manufacturers Inc.. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve MW Manufacturers Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, MW Manufacturers Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

MW Manufacturers Inc. voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia  
City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_, who is  
(name)

\_\_\_\_\_ of MW Manufacturers Inc., on behalf of the Corporation.  
(title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.